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REPORT

OF THE

COMMISSIONERS TO EXAMINE STATE OFFICES,

SUBMITTED TO THE

GOVERNOR OF ALABAMA.



MONTGOMERY, ALA.:
W. W. SCREWS, STATE PRINTER
1871.

REPORT.

MONTGOMERY, ALABAMA, }
November 1, 1871. }

To His Excellency Robert B. Lindsay,
Governor of the State of Alabama.

SIR—

The undersigned, constituting the Board of Commissioners appointed by your Excellency to examine into and report the condition of the several fiscal departments of the State government for the fiscal year ending on the 30th September, 1871, have the honor to advise your Excellency that we have discharged that duty, and to submit the subjoined report.

OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

This office was the first examined by us, and we are pleased to state that we found, upon a critical examination, that its operations during the fiscal year, to have been administered with great ability, economy and faithfulness. One fact we noted with much pleasure. The annual expenses in the payment of county officers, as compared with those of 1870, have been *reduced* to the extent of Nineteen Thousand One Hundred and Sixty-seven Dollars and Three Cents (\$19,167 03). The books of the office are elegantly and correctly kept; and the accounts for monies disbursed by County Superintendents, so far as rendered, have been properly audited, and, together with their vouchers regularly filed.

We respectfully submit herewith a tabular statement, prepared with as much care as our limited time would permit, which will exhibit the actual condition of the

office, not only for the year 1871, but also for the years 1870, 1869, 1868, 1867 and 1866. An examination into the accounts for these several years was rendered necessary by the fact, that warrants for payment of balances due to them were drawn by the Superintendent during the year 1871. And, as no reports have, as we believe, ever been made public, disclosing the operations of the office for the years named, and as much public complaint has been expressed in relation to the manner in which the department was managed during the official term of the late Superintendent, we did not confine our examination merely to the manner in which the monies paid out for their account, in the year 1871, were disbursed, but extended it to the accounts which had been previously rendered. The annexed tabular statement will show the result of our examination.

In regard to the manner in which the dividends of the school fund for the year 1870 were distributed we can hardly speak in too severe terms of reprehension. The many errors which were committed by the County Superintendents in that respect, and overlooked or permitted by the State Superintendent of Public Instruction, do not, it is true, injuriously affect the interest of the *State*. We found no *overpayments* to any of the counties for 1879. But the improper manner in which the dividends were distributed by the County Superintendents, and the careless and inefficient manner in which the accounts were audited by the late Superintendent of Public Instruction, have most seriously injured many of the *townships* and *teachers* of the *State*.

We submit a statement exhibiting the result of the mode of payments adopted and followed by the County Superintendents.

An examination of the foregoing statement will show that while there is only a balance of \$1,900 00 due from the *State* to the county, there is a balance due to several of its townships of \$2,650 00, which amount, they believe, no doubt, is due them from the *State*, while in fact \$750 00

of it is due from the *County Superintendent*, by reason of overpayments made by him to *other townships*.

The payments were made monthly; and the overpayments resulted, either through the grossest ignorance or carelessness. The County Superintendents are furnished by the State Superintendent with a certified copy of the dividend declared to each of the townships of his county; and, although he had, or should have had that before him he proceeded in his monthly payments, without reference to it, or to the amount of the previous payments made by him—not distributing the money in hand *pro rata* to the townships in payment of teachers and his own salary—overpaying several townships, in consequence of that omission, and then to cap the climax stuck the full amount of his salary at the foot of the column, as he would tie a tin kettle to a dog's tail, and then turned it loose "*to do or die.*" And, alas! there was not found at Montgomery, in the Superintendent's office, a good samaritan, by whom the unhappy thing might have been relieved of its clattering and terrifying tail ornament!

The foregoing statement relates to a case in which there is still a balance due from the State. We will now submit one in which the State has paid the full amount apportioned to the county.

We see, "in our mind's eye," just after he has had the pleasure of a visit from a squad of hungry teachers, a good honest fellow, who would not wittingly do anything wrong if he could help it. He is in a state of great excitement and distress. Something has evidently gone amiss. Listen. He will tell us his troubles! Well! well, well! what can the matter be? Here, I have paid out to the last tom-tit of a fractional, *all* the money I received from the State, and all that was due from the State, and here comes "twelve men in Buckram" upon me at once, all yelling, pay! pay!! pay!!! when, zounds! there is not left a single stiver to pay with! And it does seem, that they ought to be paid! I *don't and can't under-*

stand it. But, (frantically,) this thing *must* and shall be *settled*. He takes down his bundle of papers, spreads them upon a table, and, forthwith, proceeds to settle the thing. He studies intensely, the labor is unusual with him and distracts him. The wife and children, poor things, are driven into corners, or rather, clean out at door by the stern command: "Leave! and don't bother a man while he is trying to cypher out of his troubles!" He is becoming hot, his face, red as the full orb'd moon, seen through "a cloud of mist upon the hill," speaks thoughts unutterable! off comes his coat! and the thing is being settled with all the physical energy of man mauling rails, or hammering out a ploughshare! Courage! my friend. "*Labor omnia vincet.*" The vest has followed the coat, and, unless exhausted, nature supervene the *shirt* will come next! But before that act comes off we will take our leave, and "leave him alone in his glory," obfuscation and heat.

And, as we have duplicates of his papers, and are not at all excited, we will proceed to *settle the thing* for him with a result that will much astonish him, no doubt.

Apportionment.			Monthly payments by Co. Sup't, consolidated.	Overpayments and consequently balances due to other townships by Sup't.
T.	R.			Due Tow'ps.
1	2.....	\$ 700 00	\$ 750 00	\$ 50 00
	3.....	800 00	820 00	20 00
	4.....	900 00	930 00	30 00
	5.....	1,000 00	1,200 00	200 00
	6.....	2,000 00	1,500 00	
	7.....	1,500 00	1,000 00	\$ 500 00
			Supts. Salary. 700 00	500 00
Total App't		\$6,900 00	\$6 900 00	balance due from Supt. \$1,000 00

The same account, as it ought to have been stated and paid by the County Superintendent.

T.	R.	Apportionment.	Salary Pro rata.	Incidental expenses	Pay of Teachers.	Total Payments.
1	2.....	\$ 700 00	\$ 71 00		\$ 629 00	\$ 700 00
	3.....	800 00	81 15		718 85	800 00
	4.....	900 00	91 31		808 69	900 00
	5.....	1,000 00	101 45		898 55	1,000 00
	6.....	2,000 00	202 90		1,797 10	2,000 00
	7.....	1,000 00	152 19		1,347 81	1,500 00
		6,900 00	\$700 00		\$6,200 00	\$6,900 00

These statements have not been taken from the accounts of any particular county. They have been made in order to illustrate in a brief and succinct manner the actual conditions of the accounts for 1870 from *all* the counties of the State, with but few exceptions, and which were, with all their imperfections, endorsed by the late Superintendent, "audited and allowed, and amount certified to the Auditor." Was there ever a more pitiable, smoky, malodorous, spontaneous combustion of official incompetency! It is but justice to the late Superintendent to say that the papers show that all the auditing that was done, or attempted to be done, was the work of his clerk. From the facts disclosed, the conclusion is irresistible, that the accounts *were not audited at all*, or, only in so far as to ascertain that the apportionment made to the county was not overdrawn. The townships "had no rights the Superintendent was bound to respect!"

To conclude, we respectfully submit, that in our opinion justice to the many injured townships and teachers, requires that the balance due from the State should not be distributed until the accounts for 1870 shall have been thoroughly examined and adjusted; and that would require much time and labor, for most of the accounts are in a state of confusion, almost as inextricable as the mazes of a "dance of the nightmares."

We would further report to your Excellency a fact discovered in relation to township 17, range 5, in the county of Marengo. This township realized a revenue, at home, from the rent of its 16th section which has been reported at \$1,081 77, which is more than sufficient to pay the ratio declared by the Superintendent, to the number of scholars reported in the township, and yet, for the years 1869 and 1870 it received *directly* from the State *the full ratio per scholar*, as though it had no 16th section fund at all. This appears to have occurred twice, once through the failure of the County Superintendent to report it to the Superintendent of Public Instruction, and once

through an oversight of the last named officer, who, when it *had been* reported to him, added it inadvertently into the amount of the apportionment, declared to the county. This matter should be, by some means, adjusted.

AUDITOR'S OFFICE.

This office was the next examined, and on a comparison of the vouchers, (both for receipts and disbursement of funds,) with the journal, and then the journal with the ledger, the entries were found to correspond perfectly with the vouchers, and with each other. There were no overpayments of appropriations discovered, nor payments of claims not provided for by law. The books of the office are kept with remarkable neatness and elegance.

But we must report, as errors, that the auditor has failed to keep a *fee book* for the fees received by him under the provisions of section 93 Revised Code, and to account to the treasurer for the State's proportion thereof ; nor does it appear that such book was kept by his predecessor. The fees received by him for "annexing his official seal for private or personal use" he claims as the perquisites of his office ; and it appears that he is sustained in that view of the case by an opinion of the late Attorney General of the State, and also by the custom of the office. He reports no fees received for *copying* done in the office ; but states that for want of sufficient clerical force, *all* the fees for that service were given to persons outside the office, who did the work. In both cases we consider him in error. In the first, because we are of the opinion that the words "*for private or personal use*" contained in the section named, manifestly mean the private and personal use of the party in whose behalf the official seal was annexed, and do not at all relate to this *disposition* to be made of the *fees*. The emphatic, mandatory words "*he must charge,*" &c., clearly command the performance of a *public duty* for the pecuniary interests of the State, and not for his *own benefit*. And the latter clause of the section, "*and pay the same, except*

one-half the fees for copying, &c., *into the treasury*," are too plain in their meaning to admit a doubt as to his duty in the premises. As to the fees received for copying, we admit his perfect right to make such disposition of his *own share* of them as he may deem proper. But we deny his right to make other disposition of the State's share than to pay it into the treasury. The provisions of *written* law cannot be evaded or destroyed by *custom*, or *opinion*, and can only be superceded, if constitutional, by the *powers* that enact's it.

The annexed tabular statement exhibits the condition of the office on the 30th September, 1871, viz. :

ABSTRACT OF RECEIPTS AND DISBURSEMENTS OF AUDITOR'S
OFFICE, 1871.

Balance in the treasury, 1st Oct. 1870,.....	\$ 44,325 82
Total receipts during fiscal year 1871.....	1,378,168 85
Total balance and receipts.....	\$1,422,494 67
Total disbursements during the year.....	1,640,116 99
Balance against the treasurer (outstanding, warrants).....	\$217,622 32

STATE STAMP ACCOUNT.

Total amount received by the late Comptroller.....	\$70,000 00
Total amount sold by the Comptroller and Auditor, and delivered by the Auditor to the State Treasurer to be sold.....	32,890 00
Amount on hand by actual count	\$37,110 00

TREASURER'S OFFICE.

This, the last office examined, we found, on thorough

examination, to have been correctly kept. The certificates of the Auditor for receipt of funds were compared with the entries on the books of the office, and were found to correspond, both as to number and amount of the certificate, and to agree with the entries on the books of the Auditor; and so, also, in regard to the warrants for disbursements, in so far as they have been paid.

The amount of funds received since the 1st of October were added to the balance shown to be in the treasury on that day, and the payments made, since deducted from the aggregate amount of balance and subsequent receipts, the money on hand counted, and the balance stated to be in the treasury on the 30th September as well as on this day, found to be correct.

We annex a tabular statement :

STATEMENT SHOWING RECEIPTS AND DISBURSEMENTS OF
TREASURER'S OFFICE, DURING THE FISCAL YEAR ENDING
30TH SEPTEMBER, 1871.

Balance on hand Oct. 1st, 1870, viz :

Uncurrent bank notes.....\$ 1,860 00

Certificate of Northern Bank of

Alabama..... 35 05

Gold and silver coin..... 841 55

State certificates..... 865 00

United States currency..... 49,984 23-\$ 53,585 83

Total receipts during and for years 1870-71, 1,378,168 85

Total balance and receipts..... \$1,431,754 58

Disbursements for and during year ending

30th. September, 1871,..... 1,425,166 52

Balance in treasury 30th Sept., 1871,..... \$6,588 16

Add amount of outstanding warrants. Deduct amount of warrants issued during preceding fiscal year, paid during the year ending 30th September, 1871, to balance and correspond with Auditor's books.

If, in the hurry of writing this report, we have omitted

anything; or have not kept within the strict bounds of the staid propriety of expression required in an official report, we beg to be allowed to supply the omission, and to disclaim any wilful breach of decorum.

Respectfully submitted.

Your obedient servants,

JOHN A. GRAHAM,
TURNER CLANTON,
Commissioners.

The undersigned concurs in the foregoing report, in so far as it relates to the correctness of the accounts and the manner in which the books are kept, and also, so far as it shows the general carelessness of the former Superintendent of Education, but dissents from the other matter and things therein narrated.

ISRAEL W. ROBERTS.

I further dissent from the above report in the matter of making a legal construction of the law in relation to fees in the Auditor's office, under section 93 of the Revised Code of Alabama. The records show that the fees have been retained by the Auditor's predecessor, (Mr. Chisholm), without objection being made by any officer, or former committee examining the office; and the whole matter was referred to the Attorney General, and his written opinion is on file in the Auditor's office, in which he decides that the fees *belong* to the *office* as a perquisite of the office for his private or personal use. This should, in my judgment, have been received as conclusive by the committee without further comment, as the duty of this committee does not include legal construction of the statutes.

ISRAEL W. ROBERTS.

The undersigned dissent from the opinion of our co-commissioner, Mr. Roberts, as to section 93, and our construction of the same, for the reason that, *ex necessitate*, the examining committee are bound to pass upon the sense and meaning of laws in their application to the conduct of public functionaries. Are not their acts supposed to be based upon, and are they not regulated by law? Do they not justify them in every act by the same? Can they act without its authority? How, then, can you conform their acts to law but by comparison and construction of the two?

TURNER CLANTON,
JOHN A. GRAHAM.